IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WP No. 17296 of 2006

Between :

M/s. Devika Agencies .. Petitioner

And

The Commercial Tax Officer,
No.I Circle, Tirupati,
Chittoor District .. Respondent

Dated : 11th September, 2006

ORAL ORDER : (per JC,J)

While disposing of the Writ Petition No. 4265 of 2006, this Court directed the stay of the recovery of tax due from the petitioner for the assessment year 2000-2001 on condition the petitioner deposits half of the disputed tax on or before 31.3.2006. It appears the petitioner could not comply with the default order within the stipulated time. The undisputed fact is that the conditional order has since been complied with though with some delay. In the meanwhile, the respondents called upon the petitioner to pay the entire amount of disputed tax in view of the default in complying with the conditional order passed by this Court coupled with the threat that if the amount is not paid, garnishee proceedings would be initiated. Hence the present writ petition with the prayer as follows :

"For the reasons stated in the accompanying affidavt, the

petitioner prays that this Hon'ble Court may be pleased to issue an appropriae writ, order or direction particularly in the nature of Writ of Mandamus declaring the action of the authority as illegal, arbitrary and unjust and to set aside the urgent notice dated 2.6.2006 considering the unprecedented sickness, disability of the Proprietor of petitioner in paying the amounts as directed by this Hon'ble Court in WP No. 4265 of 2006 complied belatedly and to grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Heard the learned Government Pleader.

At para 6 of the affidavit, the petitioner explained his inability to comply with the conditional order in the following words :

"6. The petitioner humbly submits that as the ill luck would have it, I was attacked with `Chikun Gunya' and by the time the disease was traced, I was totally unable to move from the bed and was under treatment for the same for the period from 26.3.2006 to 15.4.2006. The petitioner submits that the petitioner could not comply with the orders passed by the Hon'ble High Court in time i.e., 31.03.2006 because of the disease I had suffered and the same is not willful omission or disobedience and as such the petitioner submits that the petitioner has never had an intention to disobey the orders of this Hon'ble Court."

In the circumstances, accepting the explanation

of the petitioner, we deem it appropriate to dispose of the writ petition at the admission stage by quashing the notice of the respondents dated 2.6.2006. Notice dated 2.6.2006 issued by the respondent is quashed.

(J.CHELAMESWAR, J)

(M.VENKATESWARA REDDY,J)

11th September, 2006.

Knk